IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 4797 of 2007(U)

PETITIONER:

RAHIM, AGED 44, S/O. PAREETHUPILLA,
ELAMANA VEEDU, THOTTAKKATTUKARA,
ALUVA.

BY ADV. SRI.RAJIV NAMBISAN
SMT.R.PADMAKUMARI

RESPONDENTS:

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1. STATE OF KERALA, REP. BY ITS SECRETARY,
DEPARTMENT OF P.W.D.

2. SUPERINTENDING ENGINEER,
P.W.D. ROAD & BRIDGES, CENTRAL CIRCLE,
ALUVA.

3. EXECUTIVE ENGINEER,
P.W.D., ROAD DIVISION, ERNAKULAM.

4. ASSISTANT EXECUTIVE ENGINEER,
P.W.D. ROAD DIVISION, ALUVA.

BY GOVERNMENT PLEADER SRI. M.R. SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE PATTAYAM.

EXT.P2: TRUE COPY OF THE SALE DEED DATED 16.05.2003.

EXT.P3: TRUE COPY OF THE POSSESSION CERTIFICATE DATED 6.03.04 ISSUED BY ALUVA, VILLAGE OFFICER.

EXT.P4: TRUE COPY OF THE TAX RECEIPT WITH RESPECT TO THE BUILDING NO.193(1) ISSUED BY ALUVA MUNICIPALITY.

EXT.P5: TRUE COPY OF THE NOTICE DATED NIL ISSUED BY THE 4TH RESPONDENT.

EXT.P6: TRUE COPY OF THE REPLY DATED 6.2.07 ISSUED BY THE PETITIONER.

EXT.P7: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE 4TH RESPONDENT IN C.S.NO.13/06 ON THE FILES OF THE MUNSIFF'S COURT, ALUVA .

EXT.P8: TRUE COPY OF THE SKETCH PRODUCED BY THE ADVOCATE COMMISSIONER IN C.S.NO.13/06 ON THE FILES OF THE MUNSIFF'S COURT, ALUVA.

4TH RESPONDENT'S EXHIBITS

EXT.R4(A): TRUE COPY OF THE SKETCH PREPARED BY THE TAHSILDAR, ALUVA.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO. 4797 OF 2007

DATED THIS THE 17th DAY OF JULY, 2007

JUDGMENT

By Ext.P5 notice, the petitioner has been directed to vacate the properties mentioned therein. The petitioner's complaint is that even though he submitted Ext.P6 reply, without hearing him and without complying with the principles of natural justice, he is being forced to vacate the property. The petitioner submits that such procedure is violative of principles of natural justice and provisions of Kerala Land Conservancy Act and Rules.

2. I have heard the learned Government pleader also. However, the learned Government pleader could not satisfy me that the petitioner has been afforded an opportunity of being heard in the matter. The 4th respondent has filed a counter affidavit. The same does not disclose that principles of natural justice have been complied with in the matter. In the above circumstances, the writ petition is disposed of as follows.

The 4th respondent shall afford an opportunity of being heard to the petitioner which shall include an opportunity to adduce evidence

also. Thereafter, the 4th respondent shall pass a speaking order meeting the contentions of the petitioner on the basis of the evidence to be produced by him. Till orders thus passed are communicated to the petitioner, the petitioner shall not be evicted from the property in question

S. SIRI JAGAN, JUDGE

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